

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE**

In Re: SKELAXIN (METAXALONE) ANTITRUST LITIGATION	Lead Case No. 2:12-cv-4 MDL No. 2343 Judge Curtis L. Collier
THIS DOCUMENT RELATES TO: All Indirect Purchaser for Resale Actions	

**INDIRECT PURCHASER FOR RESALE PLAINTIFFS' MOTION FOR
RECONSIDERATION OF THE COURT'S JANUARY 30, 2014
ORDER DENYING CLASS CERTIFICATION**

Indirect Purchaser for Resale Plaintiffs ("IPPs") hereby move this Court to reconsider its January 30, 2014 order denying class certification (ECF No. 508) ("Order") and certify the below four subclasses:¹

California Subclass: All persons and entities that indirectly purchased Skelaxin for resale in California at any time during the period November 4, 2005 through and until the anticompetitive effects of Defendants' conduct ceased or ceases (the "Class Period").

Michigan Subclass: All persons and entities that indirectly purchased Skelaxin for resale in Michigan at any time during the period November 4, 2005 through and until the anticompetitive effects of Defendants' conduct ceased or ceases (the "Class Period").

Mississippi Subclass: All persons and entities that indirectly purchased Skelaxin for resale in Mississippi at any time during the period November 4, 2005 through and until the anticompetitive effects of Defendants' conduct ceased or ceases (the "Class Period").

¹ Although IPPs believe their originally proposed subclasses were properly limited to purchases made in each subclass state, these proposed subclasses are modified slightly from those set out in IPPs' original motion to make clear that membership turns on purchases in the state, not just operation of a business in the state.

New York Subclass: All persons and entities that indirectly purchased Skelaxin for resale in New York at any time during the period November 4, 2005 through and until the anticompetitive effects of Defendants' conduct ceased or ceases (the "Class Period").

As set forth in the accompanying memorandum, reconsideration is appropriate because, respectfully, this Court erroneously concluded (1) that the class representatives had not purchased Skelaxin in each of those states when the record affirmatively demonstrates that each class representative operates its business and purchases Skelaxin in the state where it is based, and (2) that individualized issues existed as to pharmacies with operations in multiple states when these individualized issues affect just five-hundredths of one percent of the subclass members such that any individualized issues do not predominate over the myriad common issues in this case. Thus, reconsideration of the Order and certification of the four state subclasses is appropriate to "correct a clear error or prevent manifest injustice." *Rodriguez v. Tenn. Laborers Health & Welfare Fund*, 89 F. App'x 949, 959 (6th Cir. 2004).

Respectfully submitted,

Dated: February 12, 2014.

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CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2014, a copy of the foregoing was electronically served on counsel of record for all parties via the Court's CM/ECF system.

Dated: February 12, 2014.

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